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WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
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EXAMINER

TORRES VELAZQUEZ, NORCA LIZ

ART UNIT	PAPER NUMBER
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/997,673
Filing Date: November 29, 2001
Appellant(s): NGAI, MOU-CHUNG

MAILED
AUG 09 2006
GROUP 1700

Stephen D. Geimer
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed May 18, 2006 appealing from the Office action mailed April 18, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner.

The rejection of claims 22-28 under 35 U.S.C. 112, second paragraph.

The rejection of claims 22-28 under 35 U.S.C. 103(a) as being unpatentable over WELCHER et al. '818 in view of WONG et al. '588.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,103,061	ANDERSON et al.	8-2000
4,810,568	BUYOFSKY et al.	3-1989
5,951,991	WAGNER et al.	9-1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 112

- The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

- Claims 22-28 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 28 recites “said nonwoven fabric wipe exhibits a frictional coefficient differential between the opposite expansive surfaces thereof of at least 0.05.” Support for this limitation is not found in the specification because none of the data indicate that measurements of frictional coefficients were taken on opposite expansive surfaces.

- Claims 22-28 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 28 recites "said nonwoven fabric wipe exhibits a frictional coefficient differential between the opposite expansive surfaces thereof of at least 0.05." However, the specification does not enable the claimed limitation in the specification. No teaching is provided as to how much binder and what type of binder should be used with any given sample fabric to provide the claimed coefficient differential.

Claim Rejections - 35 USC § 102/103

- The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- Claims 22, 24, 25, and 28 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Anderson et al. (U.S. Patent No. 6,103,061).

Anderson et al. disclose a hydraulically entangled nonwoven fabric comprising two layers and a bonding material applied to one side of the web (column 2, lines 28-36). The application of binder to the web would make it more abrasive. Although Anderson et al. do not

explicitly teach the limitation of a frictional coefficient differential between the opposite expansive surfaces to be at least 0.05, it is reasonable to presume that said limitations are inherent to the invention. Support for said presumption is found in the use of similar materials (i.e. nonwoven hydroentangled fabric) and in the similar production steps (i.e. coated with a binder on one side in a pattern) used to produce the absorbent wipe. The burden is upon the Applicant to prove otherwise. *In re Fitzgerald*, 205 USPQ 594. In the alternative, the claimed frictional coefficient differential would obviously have been provided by the process disclosed by Anderson et al. Note *In re Best*, 195 USPQ 433, footnote 4 (CCPA 1977) as to the providing of this rejection under 35 USC 103 in addition to the rejection made above under 35 USC 102. With regard to claims 24 and 25, the binding material may be applied by spraying (column 13, lines 5-7) in a pre-selected pattern (column 14, lines 38-59).

Claim Rejections - 35 USC § 103

- Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al. in view of Buyofsky et al. (U.S. Patent No. 4,810,568).

Anderson et al. do not disclose an intermediate layer between the first and second layers. Buyofsky et al. disclose a nonwoven composite used as a wipe with excellent abrasion resistance, dimensional stability, and absorbency (column 1, lines 47-60). Two entangled layers are coated with an abrasive binder, and then laminated together with a thermoplastic reinforcement layer in-between, which offers dimensional stability to the composite (column 2, lines 36-64). It would have been obvious to one having ordinary skill in the art to use a reinforcement layer in the nonwoven composite of Anderson et al. in order to increase the dimensional stability of the composite, as taught by Buyofsky et al. Anderson et al. do not disclose the binder material to abate from one layer to the next.

- Claims 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al. in view of Wagner et al. (U.S. Patent No. 5,951,991)

Anderson et al. teach using pigment in the binder composition (Abstract; column 2, line 42), but do not disclose the binder should have a different color than the other surface. Wagner et al. teach that the use of different colors in a wipe can help the user distinguish the surfaces (column 8, lines 41-42). It would have been obvious to a person having ordinary skill in the art at the time of the invention to use different color binder in the material of Anderson et al. in order to allow a user to easily distinguish the surfaces of the wipe, as taught by Wagner et al.

(10) Response to Argument

- Appellant's argue that the Specification indicates that measurements of frictional coefficient were taken on opposite expansive surfaces and that the claims comply with the requirements of 35 U.S.C. 112.

It is noted that the table on page 17 of the Specification and graph in Figure 4 fail to show a differential between one expansive surface and the opposite expansive surface. While the table and graph do provide values for frictional coefficient, it is not explained how any of the values relate to one another.

It is further noted that the specification does not provide any disclosure as to what binder materials can be used to reach this claimed limitation of a frictional coefficient differential of at least 0.05. If a specific abrasiveness value is being claimed, a person of ordinary skill in the art has to know what materials can be used in order to achieve that abrasiveness value.

- With regard to the prior art of ANDERSON et al., Appellants argue that this reference can be construed as teaching away from appellant's invention. Appellants maintain that ANDERSON et al. is completely silent of any teachings regarding selectively enhancing abrasiveness of one surface of a nonwoven fabric wipe, with no suggestion of creating a frictional coefficient differential.

It is the Examiner's position that ANDERSON et al. contemplates an embodiment in which at least one side of the web is coated with the bonding material. (Col. 2, line 34, line 60) In accordance with Appellant's affidavit filed May 18, 2006, it is asserted that the binder applied to an expansive surface enhances a surface abrasiveness of such surface as compared to a surface abrasiveness of the other expansive surface, to which the binder is not applied. Therefore, it is the Examiner's interpretation that regardless of the creping treatment ANDERSON et al. provides to the material, there will be a differential in surface abrasiveness between the surface with binder and the one without binder. The Examiner concludes that ANDERSON et al. meets all the structural limitations of claims 22, 24, 25 and 28, and the claimed limitation of a frictional coefficient differential between the opposite expansive surfaces is inherent to their invention or in the alternative, the claimed property would obviously have been provided by the process disclosed by ANDERSON et al. With regard to arguments indicating that ANDERSON et al. is silent regarding the claimed bi-functionality of the present nonwoven wipe, it is noted that "bi-functionality" is a use of the material. The claims are directed to a product, not a use.

- Appellants argues that the combination of ANDERSON et al. with BUYOFSKY et al. does not teach the provision of an intermediate layer that acts as a barrier between the outer layers and abates penetration of the binder composition to the first outer layer.

The Examiner maintains herein that the presence of the middle reinforcement layer of BUYOFSKY et al. would accomplish Appellant's desired function because a fibrous middle layer would abate migration of binder, whether or not the prior art specifically states that it does.

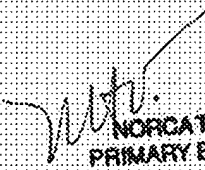
With regard to the rejection of claims 26 and 27 over ANDERSON et al. in view of WAGNER et al., it is noted that ANDERSON et al. does teach the inclusion of a pigment in the binder coating composition (Abstract). When the binder is applied to only one side it would appear the side without the pigmented binder would be different. In addition, the Examiner has further relied on the teachings of WAGNER et al. to further show motivation for using different colors in the different surfaces of a cleansing product.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



NORCA TORRES
PRIMARY EXAMINER

August 3, 2006

Conferees:

Terrel Morris



Jennifer Kolb-Michener

